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3D Super Rely  
Filed 14 June 2001  
14 JUNE 2001

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,  
12 Plaintiff,

Criminal No.: CR-00-0654-CRB

THIRD SUPERSEDING INDICTMENT

13 v.

18 U.S.C. § 1962(d)

14 ~~GERALD RUBALCABA,~~ NF2

Conspiracy to Conduct the Affairs of an Enterprise through a Pattern of Racketeering Activity [Count 1]

a/k/a "Cuete,"

a/k/a "Cinco Nueve,"

15 JAMES MORADO, NF2

a/k/a "Tibbs,"

16 CORNELIO TRISTAN, NF2

a/k/a "Corny,"

17 JOSEPH RAYMOND HERNANDEZ, NF2

a/k/a "Pinky,"

18 TEX MARIN HERNANDEZ, NF2

DANIEL PEREZ, NF2

a/k/a "Stork,"

19 ~~SHELDON VILLANUEVA,~~

a/k/a "Skip,"

20 ~~CEASAR RAMIREZ,~~

a/k/a "Lobo,"

21 ~~RICO GARCIA,~~

a/k/a "Smiley,"

22 ROBERT ROSE,

a/k/a "Chico,"

23 ISRAEL MENDOZA,

a/k/a "Silent,"

24 RAMIRO GARCIA,

a/k/a "Goose,"

25 ALBERTO LAIREZ,

a/k/a "Bird,"

26 LUIS RAMON AROCHE,

a/k/a "Roach,"

27 ARMANDO HEREDIA,

28 a/k/a "Suave,"

18 U.S.C. § 1959(a)(1)

Murder in Aid of Racketeering Activity [Counts 4, 10, 13, 19, 23]

18 U.S.C. § 1959(a)(5)

Conspiracy to Murder in Aid of Racketeering Activity [Counts 3, 6, 8, 9, 12, 15, 16, 18, 21, 22, 26]

18 U.S.C. § 1959(a)(5)

Attempted Murder in Aid of Racketeering Activity [Counts 7, 17]

18 U.S.C. § 924(c)(1)

Using and Carrying a Firearm During a Crime of Violence [Counts 5, 11, 14, 20, 24]

18 U.S.C. § 1512(b)(1)

Tampering with a Witness [Count 27]

18 U.S.C. § 3

Accessory after the Fact [Count 25]

1	VIDAL FABELA,	)	<u>18 U.S.C. § 922(g)(1)</u>
	a/k/a "Spider,"	)	Felon in Possession of a Firearm
2	JACOB ENRIQUEZ,	)	[Counts 28, 30, 31, 33, 34]
	a/k/a "Blackie,"	)	
3	<del>HENRY CERVANTES,</del>	)	<u>18 U.S.C. § 922(k)</u>
	a/k/a "Happy,"	)	Possession of a Firearm with an Obliterated
4	ANTHONY MORALES	)	Serial Number
	a/k/a "Chino,"	)	[Counts 29, 32]
5	DAVID M. ROCHA,	)	
	a/k/a "Sir Dyno," and	)	
6	DIANA VASQUEZ,	)	SAN FRANCISCO VENUE
		)	
7	Defendants.	)	<u>UNDER SEAL</u>
8	_____	)	

9 The Grand Jury charges:

10 BACKGROUND

11 At all times relevant to this indictment:

12 1. The Nuestra Familia was a criminal organization, founded in approximately 1965,  
13 which operated principally in Northern California and within California correctional institutions.  
14 The organization provided protection and security for its members and associates from rival  
15 organizations and gangs both inside and outside California correctional institutions, including the  
16 Mexican Mafia criminal organization, and unlawfully generated income and furnished financial  
17 support for its members, particularly incarcerated members. Members and associates of the Nuestra  
18 Familia engaged in acts of violence, including murder, robbery, extortion, and distribution of  
19 controlled substances on behalf of the organization, and all Nuestra Familia members were required,  
20 for life, to contribute twenty-five percent of any earnings, whether from lawful or unlawful means, to  
21 repositories known as Nuestra Familia "banks."

22 2. Individuals obtained membership in the Nuestra Familia upon sponsorship by a  
23 member and approval by high ranking members. Usually membership was approved only after a  
24 period of indoctrination by Nuestra Familia members in which prospects were schooled and then  
25 tested, sometimes referred to as "21 Questions" or "the Third Degree," about Nuestra Familia  
26 criminal activities, including the manufacture of prison weapons, or "shanks," and the commission of  
27 murder, robbery and drug dealing inside and outside of prison. Only those who evinced both a

1 knowledge of, and willingness to participate in, these activities were eligible for membership. The  
2 perpetration of violence and other crimes was ordinarily a prerequisite to membership in the  
3 organization, and membership, once achieved, was for life, as symbolized by the organization's  
4 membership phrase, "blood in, blood out."

5         3. In approximately 1983, the leaders of the Nuestra Familia established an affiliate,  
6 subordinate organization called the Nuestra Raza. The principal purposes of the Nuestra Raza  
7 organization were to provide training and discipline to individuals who aspired to be promoted or  
8 "pulled" into the Nuestra Familia and to distract law enforcement from the activities of the Nuestra  
9 Familia. Members of the Nuestra Raza, while incarcerated within California penal institutions,  
10 assumed responsibility generally to promote the criminal objectives of the Nuestra Familia. Among  
11 other things, they conducted Nuestra Familia functions in the common areas of California penal  
12 institutions on behalf of Nuestra Familia members who were isolated in segregated housing units,  
13 and, in return, they received protection from rival organizations. Members of the Nuestra Raza were  
14 associates, but not members, of the Nuestra Familia, and throughout most of the Nuestra Raza  
15 organization's existence its members were not required to "function" as Nuestra Familia members  
16 outside of prison. In about 1998, the leadership of the Nuestra Familia disbanded the Nuestra Raza  
17 largely because its members had become too autonomous, threatening the authority of the Nuestra  
18 Familia.

19         4. The Nuestra Familia had an ascertainable structure separate and apart from the  
20 structure inherent in the conduct of its racketeering activity, including a hierarchical system of  
21 authority and a constitution that guided the operation of the organization. The Nuestra Familia  
22 consisted of hundreds of members and more than one-thousand associates, incarcerated and outside  
23 prison. The organization's ruling body, variously known as the "Organizational Governing Body"  
24 ("OGB") and "La Mesa," was comprised of inmates sometimes referred to as "generals" as well as  
25 other senior Nuestra Familia leaders in Pelican Bay State Prison, located in Crescent City, California.  
26 Outside of penal facilities, the Nuestra Familia was divided into geographic "regiments" managed by  
27 "regiment leaders"; these regiments served as the basic unit or crew through which the Nuestra

1 Familia conducted much of its criminal activity. Subordinate to the members of the OGB were other  
2 members of the Nuestra Familia known by different titles or ranks such as "Category One,"  
3 "Category Two," and "Category Three," during one phase of the organization, and captains,  
4 lieutenants, and soldiers, during another phase. Each of these ranks entailed different and specific  
5 organizational responsibilities. Individual members of the Nuestra Familia were often referred to as  
6 a "Familiario" or "Carnal."

7         5.       The members of the OGB, and to a lesser extent other Nuestra Familia Category One  
8 leaders, or captains, were responsible for establishing regiments and gang policy, resolving intra-  
9 gang disputes among members and associates of the Nuestra Familia, approving new memberships  
10 in the organization and authorizing significant actions by members of the Nuestra Familia and  
11 Nuestra Raza, including the commission of murder. The members of the OGB and other Nuestra  
12 Familia leaders supervised, supported, and protected the other members of the Nuestra Familia and  
13 Nuestra Raza; in return, these leaders received a share of the illegal and legal earnings of the Nuestra  
14 Familia members.

15         6.       Maintaining discipline within, and allegiance to, the Nuestra Familia Organization  
16 was a constant concern and preoccupation of the Nuestra Familia leadership. Some members of the  
17 Nuestra Familia, particularly those outside of correctional institutions, sought to distance themselves  
18 or even withdraw from the organization. Others failed to earn and contribute money to the  
19 organization as generally required, or failed to fulfill specific instructions issued to them by leaders  
20 in Pelican Bay State Prison or regiment leaders on the streets. Members often vied with one another  
21 for control and influence. Some abused drugs in contravention of Nuestra Familia rules, while others  
22 committed serious crimes such as robbery or murder against fellow Nuestra Familia members  
23 without the proper authorization from the Nuestra Familia leadership.

24         7.       To maintain discipline and allegiance, the Nuestra Familia leadership in Pelican Bay  
25 State Prison demanded frequent communication by members through assigned "channels."  
26 Incarcerated Nuestra Familia members and associates communicated with each other and with those  
27 outside of penal institutions via inmates passing into or out of correctional facilities and prison

1 visitors. Coded letters and "micro-writings," known as "kites" or "wilas," often transcribed and  
2 forwarded by inmates' spouses and girlfriends and sometimes disguised as legal mail, were also used  
3 for communication among Nuestra Familia members and associates.

4 8. Through such communication, the Nuestra Familia leadership remained abreast of the  
5 activities of members and associates inside and outside of correctional facilities and issued new rules  
6 and directives. Individual members of the Nuestra Familia were often instructed to generate and  
7 contribute money to the organization, to establish regiments in different communities, and to commit  
8 various crimes, including murder. Those who refused to obey the rules or directives of the Nuestra  
9 Familia and those who sought to withdraw from the organization were ultimately deemed "no good"  
10 and thus subject to a "green light" which was an order that such person be killed.

11 9. The Nuestra Familia, including its subordinate organization, the Nuestra Raza, as well  
12 as its leadership, membership, and associates, constituted an enterprise as defined and used in Title  
13 18, United States Code, Sections 1959(b)(2) and 1961(4), that is, a group of individuals associated in  
14 fact that engaged in, and the activities of which affected, interstate and foreign commerce  
15 (hereinafter collectively referred to as the "Nuestra Familia" or the "Nuestra Familia criminal  
16 enterprise"). The Nuestra Familia criminal enterprise, through its members and associates, engaged  
17 in racketeering activity as defined and used in Title 18, United States Code, Sections 1959(b)(1) and  
18 1961(1), namely, multiple acts involving murder and robbery in violation of California State law,  
19 and multiple acts involving the distribution of controlled substances in violation of Title 21, United  
20 States Code, Sections 841 and 846. The Nuestra Familia conducted its activities within the Northern  
21 District of California as well as other parts of California.

22 10. Among the means and methods by which the defendants and their co-racketeers  
23 conducted and participated in the conduct of the affairs of the Nuestra Familia criminal enterprise  
24 were the following:

25 a. Members and associates of the Nuestra Familia used the Nuestra Familia  
26 criminal enterprise to commit, and to attempt, conspire and threaten to commit, acts of violence,  
27 including murder and assault, to promote and protect the enterprise's criminal operation. Non-

1 members and non-associates who threatened, impeded, or interfered with the enterprise's criminal  
2 activities, or the racketeering activities of its members and associates, were subject to assault and  
3 death. Drug dealers distributing controlled substances in areas controlled by the Nuestra Familia  
4 who refused to pay "rent," or a percentage of their earnings, to the Nuestra Familia and its associates  
5 were also subject to assault and murder. To enforce the rules of the Nuestra Familia criminal  
6 enterprise and to promote discipline, the members of the Nuestra Familia used the enterprise to  
7 assault and murder, and to attempt, conspire and threaten to assault and murder, those participants in  
8 the enterprise and others who violated the rules or posed a threat to the enterprise. The Nuestra  
9 Familia constitution provided in Article 2, Section 5: "AN AUTOMATIC DEATH SENTENCE  
10 WILL BE PUT ON A FAMILIANO THAT TURNS TRAITOR, COWARD, OR DESSERTER  
11 [sic]."

12           b. Members and associates of the Nuestra Familia committed robbery to generate  
13 income for the enterprise. That income was to be used by members for personal expenses and to  
14 purchase firearms, ammunition, pagers, automobiles and other items for use by the enterprise. All  
15 Nuestra Familia members were required to contribute twenty-five percent of the proceeds of such  
16 robberies to a Nuestra Familia "bank." The members and associates of the Nuestra Familia  
17 perpetrated these robberies within residential and commercial establishments as well as against non-  
18 member and non-associate drug dealers. Residential robberies against drug dealers, known as "home  
19 invasions," were committed to obtain money, drugs, firearms and other valuable goods from  
20 individuals who were often unwilling to report, or assist in the investigation of, these crimes.

21           c. Members and associates of the Nuestra Familia distributed controlled  
22 substances to generate income for the enterprise. That income was to be used by members for  
23 personal expenses and to purchase firearms, ammunition, pagers, automobiles and other items for  
24 use by the enterprise. All Nuestra Familia members were required to contribute twenty-five percent  
25 of the proceeds of such drug dealing to a Nuestra Familia "bank." The controlled substances  
26 distributed by members and associates of the enterprise included methamphetamine, heroin, cocaine,  
27 and marijuana.

11. The defendants GERALD RUBALCABA, a/k/a "Cuete" and "Cinco Nueve," JAMES MORADO, a/k/a "Tibbs," CORNELIO TRISTAN, a/k/a "Corny," JOSEPH RAYMOND HERNANDEZ, a/k/a Pinky," TEX MARIN HERNANDEZ, DANIEL PEREZ, a/k/a "Stork," SHELDON VILLANUEVA, a/k/a "Skip," CEASAR RAMIREZ, a/k/a "Lobo," RICO GARCIA, a/k/a "Smiley," ROBERT ROSE, a/k/a "Chico," ISRAEL MENDOZA, a/k/a "Silent," RAMIRO GARCIA, a/k/a "Goose," ALBERTO LAREZ, a/k/a "Bird," LUIS RAMON AROCHE, a/k/a "Roach," ARMANDO HEREDIA, a/k/a "Suave," VIDAL FABELA, a/k/a "Spider," JACOB ENRIQUEZ, a/k/a "Blackie," and HENRY CERVANTES, a/k/a "Happy," were members of the Nuestra Familia.

12. The defendants ANTHONY MORALES, a/k/a "Chino," DAVID M. ROCHA, a/k/a "Sir Dyno," and DIANA VASQUEZ were associates of the Nuestra Familia.

COUNT ONE: [18 U.S.C. § 1962(d)]

13. Paragraphs one through twelve of this Third Superseding Indictment are hereby realleged and incorporated as if fully set forth herein.

14. From in or about and between 1981 and June 2001, both dates being approximate and inclusive, in the Northern District of California and elsewhere, the defendants

GERALD RUBALCABA,  
a/k/a "Cuete,"  
a/k/a "Cinco Nueve,"  
JAMES MORADO,  
a/k/a "Tibbs,"  
CORNELIO TRISTAN,  
a/k/a "Corny,"  
JOSEPH RAYMOND HERNANDEZ,  
a/k/a "Pinky,"  
TEX MARIN HERNANDEZ,  
DANIEL PEREZ,  
a/k/a "Stork,"  
SHELDON VILLANUEVA,  
a/k/a "Skip,"  
CEASAR RAMIREZ,  
a/k/a "Lobo,"  
RICO GARCIA,  
a/k/a "Smiley,"  
ROBERT ROSE,

1 a/k/a "Chico,"  
2 ISRAEL MENDOZA,  
3 a/k/a "Silent,"  
4 RAMIRO GARCIA,  
5 a/k/a "Goose,"  
6 ALBERTO LAREZ,  
7 a/k/a "Bird,"  
8 LUIS RAMON AROCHE,  
9 a/k/a "Roach,"  
10 ARMANDO HEREDIA,  
11 a/k/a "Suave,"  
12 VIDAL FABELA,  
13 a/k/a "Spider,"  
14 JACOB ENRIQUEZ,  
15 a/k/a "Blackie,"  
16 HENRY CERVANTES,  
17 a/k/a "Happy,"  
18 ANTHONY MORALES  
19 a/k/a "Chino,"  
20 DAVID M. ROCHA,  
21 a/k/a "Sir Dyno," and  
22 DIANA VASQUEZ,  
23

24 and other persons, known and unknown, being persons employed by and associated with an  
25 enterprise that engaged in, and the activities of which affected, interstate commerce, namely, the  
26 Nuestra Familia, knowingly and intentionally conspired to violate Title 18, United States Code,  
27 Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the  
28 affairs of the enterprise through a pattern of racketeering activity, as that term is defined in Title 18,  
United States Code, Sections 1961(1) and 1961(5), consisting of multiple acts involving:

(a) murder, in violation of California Penal Code Sections 31, 182, 184 and 187  
(Unlawful Killing of a Human Being with Malice Aforethought – Murder; and Conspiracy to  
Commit Murder);

(b) robbery, in violation of California Penal Code Sections 31, 182, 184 and 211  
(Robbery; and Conspiracy to Commit Robbery); and

(c) distribution of, possession with intent to distribute, and conspiracy to  
distribute a controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1),  
(b)(1) and 846, and Title 18, United States Code, Section 2.



1 It was a further part of the conspiracy that the defendants agreed that a conspirator  
2 would commit at least two acts of racketeering in the conduct of the affairs of the enterprise.

3 All in violation of Title 18, United States Code, Section 1962(d).

4  
5 COUNT TWO: [18 U.S.C. §§ 1962(c), 2]

6 15. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
7 realleged and incorporated as if fully set forth herein.

8 THE RACKETEERING OFFENSE

9 16. From in or about and between 1981 and June 2001, both dates being approximate and  
10 inclusive, in the Northern District of California and elsewhere, the defendants

11 GERALD RUBALCABA,

a/k/a "Cuete,"

12 a/k/a "Cinco Nueve,"

JAMES MORADO,

13 a/k/a "Tibbs,"

CORNELIO TRISTAN,

14 a/k/a "Corny,"

JOSEPH RAYMOND HERNANDEZ,

15 a/k/a "Pinky,"

16 TEX MARIN HERNANDEZ,

DANIEL PEREZ,

a/k/a "Stork,"

17 SHELDON VILLANUEVA,

a/k/a "Skip,"

18 CEASAR RAMIREZ,

a/k/a "Lobo,"

19 RICO GARCIA,

a/k/a "Smiley,"

20 ROBERT ROSE,

a/k/a "Chico,"

21 ISRAEL MENDOZA,

a/k/a "Silent,"

22 RAMIRO GARCIA,

a/k/a "Goose,"

23 ALBERTO LAREZ,

a/k/a "Bird,"

24 LUIS RAMON AROCHE,

a/k/a "Roach,"

25 ARMANDO HEREDIA,

a/k/a "Suave,"

26 VIDAL FABELA,

a/k/a "Spider,"

27 JACOB ENRIQUEZ,

1 a/k/a "Blackie,"  
2 HENRY CERVANTES,  
3 a/k/a "Happy," and  
4 ANTHONY MORALES  
5 a/k/a "Chino,"

6 and others, being persons employed by and associated with an enterprise that engaged in, and the  
7 activities of which affected, interstate commerce, namely, the Nuestra Familia, knowingly and  
8 intentionally did conduct and participate, directly and indirectly, in the conduct of the affairs of that  
9 enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States  
10 Code, Sections 1961(1) and 1961(5), and as set forth below.

11 All in violation of Title 18, United States Code, Sections 1962(c) and 2.

12 THE PATTERN OF RACKETEERING ACTIVITY

13 17. The pattern of racketeering activity, as defined in Title 18, United States Code,  
14 Sections 1961(1) and 1961(5), consisted of the following acts:

15 Racketeering Act One

16 Conspiracy to Distribute Controlled Substances

17 18. From in or about and between 1981 and June 2001, both dates being approximate and  
18 inclusive, in the Northern District of California and elsewhere, the defendants

19 GERALD RUBALCABA,  
20 a/k/a "Cuete,"  
21 a/k/a "Cinco Nueve,"  
22 JAMES MORADO,  
23 a/k/a "Tibbs,"  
24 CORNELIO TRISTAN,  
25 a/k/a "Corny,"  
26 JOSEPH RAYMOND HERNANDEZ,  
27 a/k/a "Pinky,"  
28 TEX MARIN HERNANDEZ,  
DANIEL PEREZ,  
a/k/a "Stork,"  
SHELDON VILLANUEVA,  
a/k/a "Skip,"  
CEASAR RAMIREZ,  
a/k/a "Lobo,"  
RICO GARCIA,  
a/k/a "Smiley,"  
ROBERT ROSE,  
a/k/a "Chico,"  
ISRAEL MENDOZA,

1 a/k/a "Silent,"  
2 RAMIRO GARCIA,  
3 a/k/a "Goose,"  
4 ALBERTO LAREZ,  
5 a/k/a "Bird,"  
6 LUIS RAMON AROCHE,  
7 a/k/a "Roach,"  
8 ARMANDO HEREDIA,  
9 a/k/a "Suave,"  
10 VIDAL FABELA,  
11 a/k/a "Spider,"  
12 JACOB ENRIQUEZ,  
13 a/k/a "Blackie,"  
14 HENRY CERVANTES,  
15 a/k/a "Happy," and  
16 ANTHONY MORALES  
17 a/k/a "Chino,"

18 and other persons, known and unknown, knowingly and intentionally conspired to commit the  
19 following offenses against the United States:

20 a. knowingly and intentionally to distribute five kilograms or more, the exact  
21 quantity being unknown, of a mixture and substance containing a detectable quantity of cocaine, a  
22 Schedule II controlled substance;

23 b. knowingly and intentionally to distribute one kilogram or more, the exact  
24 quantity being unknown, of a mixture and substance containing a detectable amount of heroin, a  
25 Schedule I controlled substance; and

26 c. knowingly and intentionally to distribute 50 grams or more of  
27 methamphetamine, and 500 grams or more of a mixture and substance containing a detectable  
28 amount of methamphetamine, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(A) and 846.

Racketeering Act Two

Conspiracy to Commit Robbery

19. From in or about and between 1981 and June 2001, both dates being approximate and  
inclusive, in the Northern District of California and elsewhere, the defendants

GERALD RUBALCABA,  
a/k/a "Cuete,"  
a/k/a "Cinco Nueve,"

1 JAMES MORADO,  
2 a/k/a "Tibbs,"  
3 CORNELIO TRISTAN,  
4 a/k/a "Corny,"  
5 JOSEPH RAYMOND HERNANDEZ,  
6 a/k/a "Pinky,"  
7 TEX MARIN HERNANDEZ,  
8 DANIEL PEREZ,  
9 a/k/a "Stork,"  
10 SHELDON VILLANUEVA,  
11 a/k/a "Skip,"  
12 CEASAR RAMIREZ,  
13 a/k/a "Lobo,"  
14 RICO GARCIA,  
15 a/k/a "Smiley,"  
16 ROBERT ROSE,  
17 a/k/a "Chico,"  
18 ISRAEL MENDOZA,  
19 a/k/a "Silent,"  
20 RAMIRO GARCIA,  
21 a/k/a "Goose,"  
22 ALBERTO LAREZ,  
23 a/k/a "Bird,"  
24 LUIS RAMON AROCHE,  
25 a/k/a "Roach,"  
26 VIDAL FABELA,  
27 a/k/a "Spider,"  
28 JACOB ENRIQUEZ,  
a/k/a "Blackie,"  
HENRY CERVANTES,  
a/k/a "Happy," and  
ANTHONY MORALES  
a/k/a "Chino,"

and other persons, known and unknown, knowingly and intentionally conspired to commit robbery,  
and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation of  
California Penal Code Sections 31, 182, 184, and 211.

Racketeering Act Three

Conspiracy to Murder "Beto," "Stymie," and Other Members or Associates of the Mexican Mafia Criminal Organization

20. From on or about and between May 3, 1989, and May 5, 1989, both dates being  
approximate and inclusive, in the Northern District of California and elsewhere, the defendant

SHELDON VILLANUEVA,  
a/k/a "Skip,"

1 and other persons, known and unknown, knowingly and intentionally conspired to murder "Beto,"  
2 "Stymie," and other unidentified individuals who were members or associates of the Mexican Mafia  
3 criminal organization and who were incarcerated in Corcoran State Prison, in Corcoran, California,  
4 and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation of  
5 California Penal Code Sections 31, 182, 184 and 187.

6 Racketeering Act Four

7 21. The defendant named below committed the following acts involving murder and  
8 robbery, either one of which constitutes the commission of Racketeering Act Four:

9 a. Attempt to Murder Juan Hernandez-Lopez

10 22. On or about September 4, 1994, in the Northern District of California, the defendant  
11 CEASAR RAMIREZ,  
12 a/k/a "Lobo,"  
13 and others, knowingly and intentionally attempted to murder Juan Hernandez-Lopez, in violation of  
14 California Penal Code Sections 21a, 31, 664, and 187.

15 b. Robbery Against Juan Hernandez-Lopez

16 23. On or about September 4, 1994, in the Northern District of California, the defendant  
17 CEASAR RAMIREZ,  
18 a/k/a "Lobo,"  
19 and others, knowingly and intentionally committed robbery against Juan Hernandez-Lopez, in  
20 violation of California Penal Code Sections 31, 211.

21 Racketeering Act Five

22 Solicitation to Murder Pablo Castaneda

23 24. On or about December 16, 1996, in the Northern District of California, the defendant  
24 RICO GARCIA,  
25 a/k/a "Smiley,"  
26 with the intent that the crime be committed, knowingly and intentionally solicited another to murder  
27 Pablo Castaneda, in violation of California Penal Code Sections 31, 653f, and 187.

28 Racketeering Act Six

1           25.     The defendant named below committed the following acts involving murder, either  
2 one of which constitutes the commission of Racketeering Act Six:

3           a.     Conspiracy to Murder Salvador Castaneda, a/k/a "Little Man"

4           26.     From in or about and between January 1997 and March 7, 1997, both dates being  
5 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

6                               CEASAR RAMIREZ,  
7                               a/k/a "Lobo,"

8 and other persons, known and unknown, knowingly and intentionally conspired to murder Salvador  
9 Castaneda, a/k/a "Little Man," and a co-conspirator committed an overt act in furtherance of the  
10 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

11           b.     Murder of Salvador Castaneda, a/k/a "Little Man"

12           27.     On or about March 7, 1997, in the Northern District of California and elsewhere, the  
13 defendant

14                               CEASAR RAMIREZ,  
15                               a/k/a "Lobo,"

16 unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise willfully  
17 participate in the murder of Salvador Castaneda, a/k/a "Little Man," in violation of California Penal  
18 Code Sections 31 and 187.

19           Racketeering Act Seven

20           28.     The defendant named below committed the following acts involving murder, either  
21 one of which constitutes the commission of Racketeering Act Seven:

22           a.     Conspiracy to Murder Kenneth Smith, a/k/a "Shitty Smitty"

23           29.     From in or about and between 1997 and January 8, 1998, both dates being  
24 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

25                               DANIEL PEREZ,  
26                               a/k/a "Stork,"

1 and other persons, known and unknown, knowingly and intentionally conspired to murder Kenneth  
2 Smith, a/k/a "Shitty Smitty," and a co-conspirator committed an overt act in furtherance of the  
3 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

4 b. Attempt to Murder Kenneth Smith, a/k/a "Shitty Smitty"

5 30. On or about January 8, 1998, in the Northern District of California, the defendant

6 DANIEL PEREZ,  
7 a/k/a "Stork,"

8 and others, knowingly and intentionally attempted to murder Kenneth Smith, a/k/a "Shitty Smitty,"  
9 in violation of California Penal Code Sections 21a, 31, 664, and 187.

10 Racketeering Act Eight

11 Conspiracy to Murder Guillermo Morales Diaz, a/k/a "Memo"

12 31. From in or about and between January 1998 and August 1998, both dates being  
13 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

14 RICO GARCIA,  
15 a/k/a "Smiley,"

16 and other persons, known and unknown, knowingly and intentionally conspired to murder Guillermo  
17 Morales Diaz, a/k/a "Memo," and a co-conspirator committed an overt act in furtherance of the  
18 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

19 Racketeering Act Nine

20 32. The defendant named below committed the following acts involving murder, either  
21 one of which constitutes the commission of Racketeering Act Nine:

22 a. Conspiracy to Murder Vincent Garcia-Sanchez, a/k/a "Chente" and "Little  
23 Chente"

24 33. From in or about and between February 1998 and March 5, 1998, both dates being  
25 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

26 RICO GARCIA,  
27 a/k/a "Smiley,"

1 and other persons, known and unknown, knowingly and intentionally conspired to murder Vincent  
2 Garcia-Sanchez, a/k/a "Chente" and "Little Chente," and a co-conspirator committed an overt act in  
3 furtherance of the conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

4 b. Murder of Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente"

5 34. On or about March 5, 1998, in the Northern District of California, the defendant

6 RICO GARCIA,  
7 a/k/a "Smiley,"

8 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
9 willfully participate in the murder of Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente," in  
10 violation of California Penal Code Sections 31 and 187.

11 Racketeering Act Ten

12 Attempt to Extort Guillermo Morales Diaz, a/k/a "Memo"

13 35. In or about July 1998, the exact date being unknown, in the Northern District of  
14 California and elsewhere, the defendant

15 CEASAR RAMIREZ,  
16 a/k/a "Lobo,"

17 knowingly attempted to obtain property from Guillermo Morales Diaz, a/k/a "Memo," with his  
18 consent, by wrongful use of force and fear, in violation of California Penal Code Sections 21a, 31,  
19 664, 518, 519, 520, and 524.

20 Racketeering Act Eleven

21 36. The defendants named below committed the following acts involving murder, either  
22 one of which constitutes the commission of Racketeering Act Eleven:

23 a. Conspiracy to Murder Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo"

24 37. From in or about and between June 1998 and August 15, 1998, both dates being  
25 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

26 TEX MARIN HERNANDEZ,  
27 CEASAR RAMIREZ,  
28 a/k/a "Lobo," and  
RICO GARCIA,  
a/k/a "Smiley,"



1  
2 and other persons, known and unknown, knowingly and intentionally conspired to murder Michael  
3 Castillo, a/k/a "Miguel Castillo" and "Mikeo," and a co-conspirator committed an overt act in  
4 furtherance of the conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

5 b. Murder of Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo"

6 38. On or about August 15, 1998, in the Northern District of California and elsewhere,  
7 the defendants

8 TEX MARIN HERNANDEZ,  
9 CEASAR RAMIREZ,  
a/k/a "Lobo," and  
10 RICO GARCIA,  
a/k/a "Smiley,"

11 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
12 willfully participate in the murder of Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo," in  
13 violation of California Penal Code Sections 31 and 187.

14 Racketeering Act Twelve

15 Conspiracy to Murder Lisa Rocha and Sophie Rocha

16 39. From in or about and between October 1998 and November 1, 1998, both dates being  
17 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

18 CEASAR RAMIREZ,  
a/k/a "Lobo," and  
19 RICO GARCIA,  
a/k/a "Smiley,"

20 and other persons, known and unknown, knowingly and intentionally conspired to murder Lisa  
21 Rocha and Sophie Rocha, and a co-conspirator committed an overt act in furtherance of the  
22 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

23 Racketeering Act Thirteen

24 40. The defendant named below committed the following acts involving murder, either  
25 one of which constitutes the commission of Racketeering Act Thirteen:

26 a. Conspiracy to Murder Hector Gallegos

1           41.     From on or about and between October 27, 1998, and November 1, 1998, both dates  
2 being approximate and inclusive, in the Northern District of California and elsewhere, the defendant

3                               RICO GARCIA,  
4                               a/k/a "Smiley,"

5 and other persons, known and unknown, knowingly and intentionally conspired to murder Hector  
6 Gallegos, and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation  
7 of California Penal Code Sections 31, 182, 184 and 187.

8                       b.     Attempt to Murder Hector Gallegos

9           42.     On or about October 30, 1998, in the Northern District of California, the defendant

10                           RICO GARCIA,  
11                           a/k/a "Smiley,"

12 and others, knowingly and intentionally attempted to murder Hector Gallegos, in violation of  
13 California Penal Code Sections 21a, 31, 664, and 187.

14                       Racketeering Act Fourteen

15           43.     The defendant named below committed the following acts involving murder, either  
16 one of which constitutes the commission of Racketeering Act Fourteen:

17                       a.     Conspiracy to Murder Geronimo Garza, Jr.

18           44.     On or about November 1, 1998, in the Northern District of California and elsewhere,  
19 the defendant

20                           RICO GARCIA,  
21                           a/k/a "Smiley,"

22 and other persons, known and unknown, knowingly and intentionally conspired to murder Geronimo  
23 Garza, Jr., and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation  
24 of California Penal Code Sections 31, 182, 184 and 187.

25                       b.     Murder of Geronimo Garza, Jr.

26           45.     On or about November 1, 1998, in the Northern District of California, the defendant

27                           RICO GARCIA,  
28                           a/k/a "Smiley,"

1 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
2 willfully participate in the murder of Geronimo Garza, Jr., in violation of California Penal Code  
3 Sections 31 and 187.

4 Racketeering Act Fifteen

5 Distribution of a Controlled Substance

6 46. On or about December 8, 1998, in the Northern District of California, the defendant  
7  
8 CEASAR RAMIREZ,  
a/k/a "Lobo,"  
9 and others, knowingly and intentionally distributed 50 grams or more of methamphetamine, and 50  
10 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a  
11 Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1),  
12 (b)(1)(A), (b)(1)(B) and Title 18, United States Code, Section 2.

13 Racketeering Act Sixteen

14 47. The defendant named below committed the following acts involving murder, either  
15 one of which constitutes the commission of Racketeering Act Sixteen:

16 a. Conspiracy to Murder Miguel Gabriel, a/k/a "Cricket"

17 48. From in or about and between December 1998 and February 1999, both dates being  
18 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

19 CORNELIO TRISTAN,  
a/k/a "Corny,"

20 and other persons, known and unknown, knowingly and intentionally conspired to murder Miguel  
21 Gabriel, a/k/a "Cricket," and a co-conspirator committed an overt act in furtherance of the  
22 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

23 b. Solicitation to Murder Miguel Gabriel, a/k/a "Cricket"

24 49. From in or about and between February 22, 1999, and February 26, 1999, both dates  
25 being approximate and inclusive, in the Northern District of California, the defendant

26 CORNELIO TRISTAN,  
a/k/a "Corny,"  
27

1 with the intent that the crime be committed, knowingly and intentionally solicited another to murder  
2 Miguel Gabriel, a/k/a "Cricket," in violation of California Penal Code Sections 31, 653f, and 187.

3 Racketeering Act Seventeen

4 50. The defendants named below committed the following acts involving murder, either  
5 one of which constitutes the commission of Racketeering Act Seventeen:

6 a. Conspiracy to Murder Robert Viramontes, a/k/a "Brown Bob"

7 51. From in or about and between January 1998 and April 19, 1999, both dates being  
8 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

9 GERALD RUBALCABA,  
a/k/a "Cuete,"  
10 a/k/a "Cinco Nueve,"  
VIDAL FABELA,  
11 a/k/a "Spider,"  
JACOB ENRIQUEZ,  
12 a/k/a "Blackie," and  
HENRY CERVANTES,  
13 a/k/a "Happy,"

14 and other persons, known and unknown, knowingly and intentionally conspired to murder Robert  
15 Viramontes, a/k/a "Brown Bob," and a co-conspirator committed an overt act in furtherance of the  
16 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

17 b. Murder of Robert Viramontes, a/k/a "Brown Bob"

18 52. On or about April 19, 1999, in the Northern District of California, the defendants

19 GERALD RUBALCABA,  
a/k/a "Cuete,"  
20 a/k/a "Cinco Nueve," and  
JACOB ENRIQUEZ,  
21 a/k/a "Blackie,"

22 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
23 willfully participate in the murder of Robert Viramontes, a/k/a "Brown Bob," in violation of  
24 California Penal Code Sections 31 and 187.

25 Racketeering Act Eighteen

26 Conspiracy to Murder a Deputy District Attorney

1           53.     From in or about and between December 1998 and June 2001, both dates being  
2 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

3                               GERALD RUBALCABA,  
4                               a/k/a "Cuete,"  
5                               a/k/a "Cinco Nueve," and  
6                               HENRY CERVANTES,  
7                               a/k/a "Happy,"

8 and other persons, known and unknown, knowingly and intentionally conspired to murder a Deputy  
9 District Attorney, employed by the Office of the District Attorney, County of Santa Clara, State of  
10 California, and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation  
11 of California Penal Code Sections 31, 182, 184 and 187.

12 Racketeering Act Nineteen

13 Tampering with A Witness

14           54.     From in or about and between April 2000 and January 2001, both dates being  
15 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

16                               RICO GARCIA,  
17                               a/k/a "Smiley,"

18 did knowingly, intentionally and corruptly persuade Paul Jimmy Salcido, and attempt to do so, with  
19 the intent to influence the testimony of Paul Jimmy Salcido in an official proceeding, namely, the  
20 trial of the defendant, RICO GARCIA, a/k/a "Smiley," in the United States District Court for the  
21 Northern District of California for the offenses alleged in Counts Twelve, Thirteen, and Fourteen of  
22 this Third Superseding Indictment, in violation of Title 18, United States Code, Sections 1512(b)(1)  
23 and 2.

24 Racketeering Act Twenty

25 Distribution of a Controlled Substance

26           55.     On or about January 24, 2001, in the Northern District of California, the defendants

27                               ISRAEL MENDOZA,  
28                               a/k/a "Silent," and  
                              ANTHONY MORALES  
                              a/k/a "Chino,"

1 and others, knowingly and intentionally distributed a mixture and substance containing a detectable  
2 amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code,  
3 Section 841(a)(1), (b)(1)(C) and Title 18, United States Code, Section 2.

4 Racketeering Act Twenty-One

5 Distribution of a Controlled Substance

6 56. On or about February 11, 2001, in the Northern District of California, the defendant

7 RAMIRO GARCIA,  
8 a/k/a "Goose,"

9 and others, knowingly and intentionally distributed 10 grams or more of phencyclidine, and a  
10 mixture and substance containing a detectable amount of phencyclidine, a Schedule II controlled  
11 substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(B), (b)(1)(C) and  
12 Title 18, United States Code, Section 2.

13 Racketeering Act Twenty-Two

14 Distribution of a Controlled Substance

15 57. On or about February 19, 2001, in the Northern District of California, the defendant

16 RAMIRO GARCIA,  
17 a/k/a "Goose,"

18 and others, knowingly and intentionally distributed 10 grams or more of phencyclidine, and a  
19 mixture and substance containing a detectable amount of phencyclidine, a Schedule II controlled  
20 substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(B), (b)(1)(C) and  
21 Title 18, United States Code, Section 2.

22 Racketeering Act Twenty-Three

23 Distribution of a Controlled Substance

24 58. On or about March 24, 2001, in the Northern District of California, the defendant

25 HENRY CERVANTES,  
26 a/k/a "Happy,"

1 and others, knowingly and intentionally distributed a mixture and substance containing a detectable  
2 amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code,  
3 Section 841(a)(1), (b)(1)(C) and Title 18, United States Code, Section 2.

4 Racketeering Act Twenty-Four

5 Distribution of a Controlled Substance

6 59. On or about April 8, 2001, in the Northern District of California, the defendants

7 ISRAEL MENDOZA,  
8 a/k/a "Silent," and  
9 ANTHONY MORALES  
10 a/k/a "Chino,"

11 and others, knowingly and intentionally distributed 50 grams or more of methamphetamine, and 50  
12 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a  
13 Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1),  
14 (b)(1)(A), (b)(1)(B) and Title 18, United States Code, Section 2.

15 Racketeering Act Twenty-Five

16 Distribution of a Controlled Substance

17 60. On or about April 22, 2001, in the Northern District of California, the defendant

18 ARMANDO HEREDIA,  
19 a/k/a "Suave,"

20 and others, knowingly and intentionally distributed 50 grams or more of methamphetamine, and 50  
21 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a  
22 Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1),  
23 (b)(1)(A), (b)(1)(B) and Title 18, United States Code, Section 2.

24 Racketeering Act Twenty-Six

25 Distribution of a Controlled Substance

26 61. On or about May 14, 2001, in the Northern District of California, the defendant

27 ROBERT ROSE,  
28 a/k/a "Chico,"

1 and others, knowingly and intentionally distributed 50 grams or more of methamphetamine, and 50  
2 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a  
3 Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1),  
4 (b)(1)(A), (b)(1)(B) and Title 18, United States Code, Section 2.

5 Racketeering Act Twenty-Seven

6 Possession of a Controlled Substance with Intent to Distribute

7 62. On or about June 7, 2001, in the Northern District of California, the defendant

8 ROBERT ROSE,  
9 a/k/a "Chico,"

10 and others, knowingly and intentionally possessed with intent to distribute 50 grams or more of  
11 methamphetamine, and 500 grams or more of a mixture and substance containing a detectable  
12 amount of methamphetamine, a Schedule II controlled substance, in violation of Title 21, United  
13 States Code, Section 841(a)(1), (b)(1)(A) and Title 18, United States Code, Section 2.

14 COUNT THREE: [18 U.S.C. §§ 1959(a)(5), 2]

15 63. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
16 realleged and incorporated as if fully set forth herein.

17 64. From in or about and between January 1997 and March 7, 1997, both dates being  
18 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

19 CEASAR RAMIREZ,  
20 a/k/a "Lobo,"

21 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
22 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
23 knowingly and intentionally conspired to murder Salvador Castaneda, a/k/a "Little Man," and a co-  
24 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
25 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
26 and 184 (Conspiracy to Commit Murder) and 31.

27 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.



1 COUNT FOUR: [18 U.S.C. §§ 1959(a)(1), 2]

2 65. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
3 realleged and incorporated as if fully set forth herein.

4 66. On or about March 7, 1997, in the Northern District of California and elsewhere, the  
5 defendant

6 CEASAR RAMIREZ,  
7 a/k/a "Lobo,"

8 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
9 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
10 knowingly and intentionally murdered Salvador Castaneda, a/k/a "Little Man," in violation of  
11 California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought  
12 – Murder) and 31.

13 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

14 COUNT FIVE: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

15 67. On or about March 7, 1997, in the Northern District of California and elsewhere, the  
16 defendant

17 CEASAR RAMIREZ,  
18 a/k/a "Lobo,"

19 and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
20 during and in relation to a crime of violence for which the defendant may be prosecuted in a court of  
21 the United States, namely, murder in aid of racketeering activity, as alleged in Count Four of this  
22 Third Superseding Indictment, and, in doing so, discharged said firearm and caused the death of a  
23 person through the use of said firearm under circumstances constituting murder as defined in Title  
24 18, United States Code, Section 1111.

25 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

26  
27 COUNT SIX: [18 U.S.C. §§ 1959(a)(5), 2]

1           68.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3           69.     From in or about and between 1997 and January 8, 1998, both dates being  
4 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

5                                 DANIEL PEREZ,  
6                                 a/k/a "Stork,"

7 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
8 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
9 knowingly and intentionally conspired to murder Kenneth Smith, a/k/a "Shitty Smitty," and a co-  
10 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
11 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
12 and 184 (Conspiracy to Commit Murder) and 31.

13                 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

14     COUNT SEVEN: [18 U.S.C. §§ 1959(a)(5), 2]

15           70.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
16 realleged and incorporated as if fully set forth herein.

17           71.     On or about January 8, 1998, in the Northern District of California, the defendant

18                                 DANIEL PEREZ,  
19                                 a/k/a "Stork,"

20 for the purpose of gaining entrance to, and maintaining and increasing his position in, the Nuestra  
21 Familia, an enterprise engaged in racketeering activity, knowingly and intentionally attempted to  
22 murder Kenneth Smith, a/k/a "Shitty Smitty," in violation of California Penal Code Sections 187  
23 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 21a and 664 (Attempt to  
24 Commit a Crime) and 31.

25                 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

26  
27     COUNT EIGHT: [18 U.S.C. §§ 1959(a)(5), 2]

1           72.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3           73.     From in or about and between January 1998 and August 1998, both dates being  
4 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

5                               RICO GARCIA,  
6                               a/k/a "Smiley,"

7 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
8 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
9 knowingly and intentionally conspired to murder Guillermo Morales Diaz, a/k/a "Memo," and a co-  
10 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
11 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
12 and 184 (Conspiracy to Commit Murder) and 31.

13               All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

14 COUNT NINE: [18 U.S.C. §§ 1959(a)(5), 2]

15           74.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
16 realleged and incorporated as if fully set forth herein.

17           75.     From in or about and between February 1998 and March 6, 1998, both dates being  
18 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

19                               RICO GARCIA,  
20                               a/k/a "Smiley,"

21 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
22 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
23 knowingly and intentionally conspired to murder Vincent Garcia-Sanchez, a/k/a "Chente" and "Little  
24 Chente," and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation of  
25 California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought  
26 – Murder), 182 and 184 (Conspiracy to Commit Murder) and 31.

27               All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

1 COUNT TEN: [18 U.S.C. §§ 1959(a)(1), 2]

2 76. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
3 realleged and incorporated as if fully set forth herein.

4 77. On or about March 6, 1998, in the Northern District of California and elsewhere, the  
5 defendant

6 RICO GARCIA,  
7 a/k/a "Smiley,"

8 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
9 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
10 knowingly and intentionally murdered Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente,"  
11 in violation of California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice  
12 Aforethought – Murder) and 31.

13 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

14 COUNT ELEVEN: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

15 78. On or about March 6, 1998, in the Northern District of California and elsewhere, the  
16 defendant

17 RICO GARCIA,  
18 a/k/a "Smiley,"

19 and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
20 during and in relation to a crime of violence for which the defendant may be prosecuted in a court of  
21 the United States, namely, murder in aid of racketeering activity, as alleged in Count Ten of this  
22 Third Superseding Indictment, and, in doing so, discharged said firearm and caused the death of a  
23 person through the use of said firearm under circumstances constituting murder as defined in Title  
24 18, United States Code, Section 1111.

25 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

26  
27 COUNT TWELVE: [18 U.S.C. §§ 1959(a)(5), 2]

1           79.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3           80.     From in or about and between June 1998 and August 15, 1998, both dates being  
4 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

5                               TEX MARIN HERNANDEZ,  
6                               CEASAR RAMIREZ,  
7                               a/k/a "Lobo," and  
                              RICO GARCIA,  
                              a/k/a "Smiley,"

8 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
9 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
10 knowingly and intentionally conspired to murder Michael Castillo, a/k/a "Miguel Castillo" and  
11 "Mikeo," and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation  
12 of California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice  
13 Aforethought – Murder), 182 and 184 (Conspiracy to Commit Murder) and 31.

14           All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

15  
16 COUNT THIRTEEN: [18 U.S.C. §§ 1959(a)(1), 2]

17           81.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
18 realleged and incorporated as if fully set forth herein.

19           82.     On or about August 15, 1998, in the Northern District of California and elsewhere,  
20 the defendants

21                               TEX MARIN HERNANDEZ,  
22                               CEASAR RAMIREZ,  
23                               a/k/a "Lobo," and  
                              RICO GARCIA,  
                              a/k/a "Smiley,"

24 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
25 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
26 knowingly and intentionally murdered Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo," in  
27

1 violation of California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice  
2 Aforethought – Murder) and 31.

3 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

4  
5 COUNT FOURTEEN: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

6 83. On or about August 15, 1998, in the Northern District of California and elsewhere,  
7 the defendants

8 TEX MARIN HERNANDEZ,  
9 CEASAR RAMIREZ,  
a/k/a "Lobo," and  
10 RICO GARCIA,  
a/k/a "Smiley,"

11 did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence  
12 for which the defendants may be prosecuted in a court of the United States, namely, murder in aid of  
13 racketeering activity, as alleged in Count Thirteen of this Third Superseding Indictment, and, in  
14 doing so, discharged said firearm and caused the death of a person through the use of said firearm  
15 under circumstances constituting murder as defined in Title 18, United States Code, Section 1111.

16 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

17  
18 COUNT FIFTEEN: [18 U.S.C. §§ 1959(a)(5), 2]

19 84. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
20 realleged and incorporated as if fully set forth herein.

21 85. From in or about and between October 1998 and November 1, 1998, both dates being  
22 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

23 CEASAR RAMIREZ,  
24 a/k/a "Lobo," and  
RICO GARCIA,  
25 a/k/a "Smiley,"

26 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
27 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,

1 knowingly and intentionally conspired to murder Lisa Rocha and Sophie Rocha, and a co-conspirator  
2 committed an overt act in furtherance of the conspiracy, in violation of California Penal Code  
3 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and  
4 184 (Conspiracy to Commit Murder) and 31.

5 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

6  
7 COUNT SIXTEEN: [18 U.S.C. §§ 1959(a)(5), 2]

8 86. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
9 realleged and incorporated as if fully set forth herein.

10 87. From on or about and between October 27, 1998, and November 1, 1998, both dates  
11 being approximate and inclusive, in the Northern District of California and elsewhere, the defendant

12 RICO GARCIA,  
13 a/k/a "Smiley,"

14 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
15 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
16 knowingly and intentionally conspired to murder Hector Gallegos, and a co-conspirator committed  
17 an overt act in furtherance of the conspiracy, in violation of California Penal Code Sections 187  
18 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and 184 (Conspiracy  
19 to Commit Murder) and 31.

20 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

21 COUNT SEVENTEEN: [18 U.S.C. §§ 1959(a)(5), 2]

22 88. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
23 realleged and incorporated as if fully set forth herein.

24 89. On or about October 30, 1998, in the Northern District of California, the defendant

25 RICO GARCIA,  
26 a/k/a "Smiley,"

1 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
2 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
3 knowingly and intentionally attempted to murder Hector Gallegos, in violation of California Penal  
4 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 21a  
5 and 664 (Attempt to Commit a Crime) and 31.

6 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

7  
8 COUNT EIGHTEEN: [18 U.S.C. §§ 1959(a)(5), 2]

9 90. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
10 realleged and incorporated as if fully set forth herein.

11 91. On or about November 1, 1998, in the Northern District of California and elsewhere,  
12 the defendant

13 RICO GARCIA,  
14 a/k/a "Smiley,"

15 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
16 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
17 knowingly and intentionally conspired to murder Geronimo Garza, Jr., and a co-conspirator  
18 committed an overt act in furtherance of the conspiracy, in violation of California Penal Code  
19 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and  
20 184 (Conspiracy to Commit Murder) and 31.

21 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

22  
23 COUNT NINETEEN: [18 U.S.C. §§ 1959(a)(1), 2]

24 92. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
25 realleged and incorporated as if fully set forth herein.

26 93. On or about November 1, 1998, in the Northern District of California and elsewhere,  
27 the defendant



1 RICO GARCIA,  
2 a/k/a "Smiley,"

3 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
4 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
5 knowingly and intentionally murdered Geronimo Garza, Jr., in violation of California Penal Code  
6 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder) and 31.

7 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

8  
9 COUNT TWENTY: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

10 94. On or about November 1, 1998, in the Northern District of California and elsewhere,  
11 the defendant

12 RICO GARCIA,  
13 a/k/a "Smiley,"

14 and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
15 during and in relation to a crime of violence for which the defendant may be prosecuted in a court of  
16 the United States, namely, murder in aid of racketeering activity, as alleged in Count Nineteen of this  
17 Third Superseding Indictment, and, in doing so, discharged said firearm and caused the death of a  
18 person through the use of said firearm under circumstances constituting murder as defined in Title  
19 18, United States Code, Section 1111.

20 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

21 COUNT TWENTY-ONE: [18 U.S.C. §§ 1959(a)(5), 2]

22 95. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
23 realleged and incorporated as if fully set forth herein.

24 96. From in or about and between December 1998 and February 1999, both dates being  
25 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

26 CORNELIO TRISTAN,  
27 a/k/a "Corny,"

1 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
2 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
3 knowingly and intentionally conspired to murder Miguel Gabriel, a/k/a "Cricket," and a co-  
4 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
5 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
6 and 184 (Conspiracy to Commit Murder) and 31.

7 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

8  
9 COUNT TWENTY-TWO: [18 U.S.C. §§ 1959(a)(5), 2]

10 97. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
11 realleged and incorporated as if fully set forth herein.

12 98. From in or about and between January 1998 and April 19, 1999, both dates being  
13 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

14 GERALD RUBALCABA,  
15 a/k/a "Cuete,"  
16 a/k/a "Cinco Nueve,"  
17 VIDAL FABELA,  
18 a/k/a "Spider,"  
JACOB ENRIQUEZ,  
a/k/a "Blackie," and  
HENRY CERVANTES,  
a/k/a "Happy,"

19 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
20 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
21 knowingly and intentionally conspired to murder Robert Viramontes, a/k/a "Brown Bob," and a co-  
22 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
23 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
24 and 184 (Conspiracy to Commit Murder) and 31.

25 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

26  
27 COUNT TWENTY-THREE: [18 U.S.C. §§ 1959(a)(1), 2]

1           99.     Paragraphs one through twelve of this Third Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3           100.    On or about April 19, 1999, in the Northern District of California and elsewhere, the  
4 defendants

5                               GERALD RUBALCABA,  
6                               a/k/a "Cuete,"  
7                               a/k/a "Cinco Nueve,"  
8                               VIDAL FABELA,  
9                               a/k/a "Spider,"  
10                              JACOB ENRIQUEZ,  
11                              a/k/a "Blackie," and  
12                              HENRY CERVANTES,  
13                              a/k/a "Happy,"

14 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
15 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
16 knowingly and intentionally murdered Robert Viramontes, a/k/a "Brown Bob," in violation of  
17 California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought  
18 – Murder) and 31.

19           All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

20           COUNT TWENTY-FOUR: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

21           101.    On or about April 19, 1999, in the Northern District of California and elsewhere, the  
22 defendants

23                               GERALD RUBALCABA,  
24                               a/k/a "Cuete,"  
25                               a/k/a "Cinco Nueve,"  
26                               VIDAL FABELA,  
27                               a/k/a "Spider,"  
28                               JACOB ENRIQUEZ,  
                              a/k/a "Blackie," and  
                              HENRY CERVANTES,  
                              a/k/a "Happy,"

and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
during and in relation to a crime of violence for which the defendants may be prosecuted in a court  
of the United States, namely, murder in aid of racketeering activity, as alleged in Count Twenty-

1 Three of this Third Superseding Indictment, and, in doing so, discharged said firearm and caused the  
2 death of a person through the use of said firearm under circumstances constituting murder as defined  
3 in Title 18, United States Code, Section 1111.

4 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

5  
6 COUNT TWENTY-FIVE: [18 U.S.C. §§ 3, 2]

7 102. From in or about and between April 19, 1999 and April 24, 1999, both dates being  
8 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

9 LUIS RAMON AROCHE,  
10 a/k/a "Roach,"

11 knowing that an offense against the United States has been committed, namely, murder in aid of  
12 racketeering activity, in violation of Title 18, United States Code, Section 1959(a)(1), as alleged  
13 herein in Count Twenty-Three, did receive, relieve, comfort, and assist the offender, Santos Burnias,  
14 in order to hinder and prevent the offender's apprehension, trial and punishment.

15 All in violation of Title 18, United States Code, Sections 3 and 2.

16 COUNT TWENTY-SIX: [18 U.S.C. §§ 1959 (a)(5), 2]

17 103. Paragraphs one through twelve of this Third Superseding Indictment are hereby  
18 realleged and incorporated as if fully set forth herein.

19 104. From in or about and between December 1998 and June 2001, both dates being  
20 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

21 GERALD RUBALCABA,  
22 a/k/a "Cuete,"  
23 a/k/a "Cinco Nueve," and  
24 HENRY CERVANTES,  
25 a/k/a "Happy,"

26 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
27 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
28 knowingly and intentionally conspired to murder a Deputy District Attorney, employed by the Office

1 of the District Attorney, County of Santa Clara, State of California, and a co-conspirator committed  
2 an overt act in furtherance of the conspiracy, in violation of California Penal Code Sections 187  
3 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and 184 (Conspiracy  
4 to Commit Murder) and 31.

5 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

6  
7 COUNT TWENTY-SEVEN: [18 U.S.C. § 1512(b)(1), 2]

8 105. In or about and between April 2000 and January 2001, both dates being approximate  
9 and inclusive, in the Northern District of California and elsewhere, the defendant

10 RICO GARCIA,  
11 a/k/a "Smiley,"

12 did knowingly, intentionally, and corruptly persuade Paul Jimmy Salcido, and attempt to do so, with  
13 the intent to influence the testimony of Paul Jimmy Salcido in an official proceeding, namely, the  
14 trial of the defendant, RICO GARCIA, a/k/a "Smiley," in the United States District Court for the  
15 Northern District of California for the offenses alleged in Counts Twelve, Thirteen, and Fourteen of  
16 this Third Superseding Indictment.

17 All in violation of Title 18, United States Code, Section 1512(b)(1) and 2.

18  
19 COUNT TWENTY-EIGHT: [18 U.S.C. § 922(g)(1), 2]

20 106. On or about February 19, 2001, in the Northern District of California and elsewhere,  
21 the defendant

22 RAMIRO GARCIA,  
23 a/k/a "Goose,"

24 having been convicted of a crime punishable by imprisonment for a term exceeding one year,  
25 namely, Possession of a Controlled Substance, in violation of California Penal Code Section  
26 11377(a), and Possession of a Controlled Substance for Sale, in violation of California Penal Code  
27 Section 11378, in or about April 1985, in the Superior Court of the State of California, County of  
28 Santa Clara; Possession of a Controlled Substance while Incarcerated, in violation of California

1 Penal Code Section 4573.6, and Possession of a Controlled Substance, in violation of California  
2 Penal Code Section 11377(a), in or about April 1987, in the Superior Court of the State of  
3 California, County of Santa Clara; Assault with a Deadly Weapon by Means of Force Likely to  
4 Produce great Bodily Injury, in violation of California Penal Code Section 245(a)(1), in or about  
5 March 1989, in the Superior Court of the State of California, County of Santa Clara; Prisoner in  
6 Possession of a Weapon, in violation of California Penal Code Section 4502, on or about August 9,  
7 1990, in the Superior Court of the State of California, County of Kern; and Possession of a  
8 Controlled Substance for Sale, in violation of California Penal Code Section 11378, and Distribution  
9 of a Controlled Substance, in violation of California Penal Code Section 11379, in or about 1998, in  
10 case number 190033, in the Superior Court of the State of California, County of Santa Clara,  
11 knowingly possessed in and affecting commerce a firearm, namely, a RG39 .38 caliber revolver,  
12 serial number obliterated.

13 All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.

14  
15 COUNT TWENTY-NINE: [18 U.S.C. § 922(k), 2]

16 107. On or about February 19, 2001, in the Northern District of California and elsewhere,  
17 the defendant

18 RAMIRO GARCIA,  
19 a/k/a "Goose,"

20 knowingly possessed a firearm, namely, a RG39 .38 caliber revolver, which has had the  
21 manufacturer's serial number removed and obliterated and has been shipped and transported in  
22 interstate commerce.

23 All in violation of Title 18, United States Code, Sections 922(k), 924(a)(1)(B) and 2.

24 COUNT THIRTY: [18 U.S.C. § 922(g)(1), 2]

25 108. On or about March 11, 2001, in the Northern District of California and elsewhere, the  
26 defendants

ISRAEL MENDOZA,  
a/k/a "Silent," and  
ANTHONY MORALES  
a/k/a "Chino,"

each defendant having been convicted of a crime punishable by imprisonment for a term exceeding one year, namely, as to Defendant Israel Mendoza, Carrying a Dirk or Dagger, in violation of California Penal Code Section 12020(a), on or about June 17, 1996, in the Superior Court of the State of California, County of Tulare, and, as to Defendant Anthony Morales, Assault with a Deadly Weapon by Means of Force Likely to Produce Great Bodily Injury, in violation of California Penal Code Section 245(a)(1), on or about April 9, 1990, in the Superior Court of the State of California, County of Tulare, knowingly possessed in and affecting commerce a firearm, namely, a Pietro Beretta .765 millimeter caliber pistol, serial number 810611.

All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.

COUNT THIRTY-ONE: [18 U.S.C. § 922(g)(1), 2]

109. On or about March 16, 2001, in the Northern District of California and elsewhere, the defendant

ALBERTO LAREZ,  
a/k/a "Bird,"

having been convicted of a crime punishable by imprisonment for a term exceeding one year, namely, Possession of a Controlled Substance, in violation of California Penal Code Section 11350, on or about May 18, 1989, in the Superior Court of the State of California, County of Monterey; Burglary in the First Degree, in violation of California Penal Code Section 459, on or about April 26, 1993, in the Superior Court of the State of California, County of Monterey; and Possession of a Controlled Substance, in violation of California Penal Code Section 11350, and Possession of a Controlled Substance, in violation of California Penal Code Section 11377(a), on or about July 16, 1997, in the Superior Court of the State of California, County of Monterey, knowingly possessed in and affecting commerce a firearm, namely, a Colt AR-15 Sporter .223 caliber assault rifle, serial number obliterated.

1 All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.

2  
3 COUNT THIRTY-TWO: [18 U.S.C. § 922(k), 2]

4 110. On or about March 16, 2001, in the Northern District of California and elsewhere, the  
5 defendant

6 ALBERTO LAREZ,  
7 a/k/a "Bird,"

8 knowingly possessed a firearm, namely, a Colt AR-15 Sporter .223 caliber assault rifle, which has  
9 had the manufacturer's serial number removed and obliterated and has been shipped and transported  
10 in interstate commerce.

11 All in violation of Title 18, United States Code, Sections 922(k), 924(a)(1)(B) and 2.

12  
13 COUNT THIRTY-THREE: [18 U.S.C. § 922(g)(1), 2]

14 111. On or about March 24, 2001, in the Northern District of California and elsewhere, the  
15 defendant

16 HENRY CERVANTES,  
17 a/k/a "Happy,"

18 having been convicted of a crime punishable by imprisonment for a term exceeding one year,  
19 namely, Burglary in the First Degree, in violation of California Penal Code Section 459, on or about  
20 April 28, 1987, in the Superior Court of the State of California, County of San Joaquin; and two  
21 counts of Assault with a Deadly Weapon while Incarcerated by Means of Force Likely to Produce  
22 Great Bodily Injury, in violation of California Penal Code Section 4501, on or about April 17, 1989,  
23 in the Superior Court of the State of California, County of Lassen, knowingly possessed in and  
24 affecting commerce a firearm, namely, a Colt Detective Special .38 caliber revolver, serial number  
61603.

25 All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.

26  
27 COUNT THIRTY-FOUR: [18 U.S.C. § 922(g)(1), 2]



1 112. On or about May 25, 2001, in the Northern District of California and elsewhere, the  
2 defendant

3 ARMANDO HEREDIA,  
4 a/k/a "Suave,"

5 having been convicted of a crime punishable by imprisonment for a term exceeding one year,  
6 namely, Involuntary Manslaughter, in violation of California Penal Code Section 192(b), on or about  
7 August 24, 1993, in the Superior Court of the State of California, County of Monterey, knowingly  
8 possessed in and affecting commerce a firearm, namely, a SKS .762 millimeter caliber rifle, serial  
9 number RB4249, and a SKS .762 millimeter caliber rifle, serial number 1404274.

10 All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.

11  
12  
13 DATED:

A TRUE BILL.

14  
15  
16 FOREPERSON

17 ROBERT S. MUELLER, III  
18 United States Attorney

19 DAVID SHAPIRO  
20 Chief, Criminal Division

21 (Approved as to form: \_\_\_\_\_)  
22 DOJ Trial Att'y Corbin A. Weiss  
23 AUSA Steven F. Gruel  
24  
25  
26  
27

28 THIRD SUPERSEDING INDICTMENT